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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,641	03/15/2001	Jacob Oshins	50037.02USU1	5021

7590 08/13/2004

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Minneapolis, MN 55402-0903

EXAMINER
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VU, THONG H

ART UNIT	PAPER NUMBER
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2142

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/809,641	OSHINS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thong H Vu	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>90701;61802</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

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1. Claims 1-20 are pending.
2. According to the telephone interview with Timothy Sullivan, attorney of applicant # 47,981, on 7/26/04, agreed to cancel claim 13.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-12 and 14-20 are rejected under the judicially created doctrine of double patenting over claims 1-21 of U. S. Patent No. 6,748,461 B2 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows:

**Patent '461:**

(claim 1) A computer-readable medium having computer-executable instructions, comprising: loading a component in a configuration management system, the component defining an I/O space for providing access to a CMOS device;

registering a provider to handle instructions issued to the defined I/O space;  
receiving an instruction from a requesting component of the configuration management system to access the CMOS device through the defined I/O space; and  
passing the instruction to the provider registered to handle the instruction.

(claim 12) executable instructions for creating the CMOS data object within a namespace of a configuration management system.

(claim 16) the identification data object distinguishes the CMOS device from other CMOS devices by a characteristic.

**Application:**

(claim 1) A computer-readable medium having computer-executable components, comprising: a namespace including a plurality of objects, at least one of the objects being associated with a general-purpose event component, the at least one object identifying the general-purpose event component and including a sub-object that defines a set of resources used by the at least one object, wherein the at least one object is distinguishable from other objects in the namespace that specify other general-purpose event components.

(claim 6) the at least one object is dynamically loadable into the namespace in response to a hardware component associated with the at least one object being added to a computing system associated with the computer-readable medium.

(claim 18) the first data object and the second data object are stored within a BIOS associated with a configuration management system.

It was obvious both patent 461 and application disclose a program accesses to a namespace (i.e.: I/O space) which associated to a network device.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4,6-12,14-19 are rejected under 35 U.S.C. § 102(e) as being anticipated by Mellmer [6,446,253 B1].

5. As per claim 1, Mellmer discloses a computer-readable medium having computer-executable components, comprising:

a namespace including a plurality of objects [Mellmer, a namespace is a list of names associated with collections of objects, col 6 lines 24-50], at least one of the objects being associated with a general-purpose event component [Mellmer, all of the component are objects, col 9 line 55-col 10 line 6], the at least one object identifying the general-purpose event component and including a sub-object (i.e.: sub-class) that defines a set of resources used by the at least one object, wherein the at least one object is distinguishable from other objects in the namespace that specify other general-purpose event components [Mellmer, components including content field which identifies the object and type of resource, col 5 lines 40-55, col 6 lines 50-67; sub-class, col 7lines 17-28].

6. As per claim 2, Mellmer discloses the resources used by the at least one object comprise I/O space resources as inherent feature of user interface object.

7. As per claim 3, Mellmer discloses the resources used by the at least one object comprise memory space resources [Mellmer, working memory, col 6 lines 1-5].

8. As per claim 4, Mellmer discloses at least one control method to handle a notice generated by a hardware device [Mellmer, notifies user, col 7 lines 40-52, notification component, col 11 lines 1-5].

9. As per claim 6, Mellmer discloses the at least one object is dynamically loadable into the namespace [Mellmer, dynamically loaded, col 7 lines 28-40] in response to a hardware component associated with the at least one object being added to a computing system associated with the computer-readable medium [Mellmer, add program functionality to a system, col 13 lines 39-50].

10. As per claim 7, Mellmer discloses the at least one object is unloadable from the namespace [Mellmer, no code or object are loaded, col 7 lines 28-40].

11. Claim 9 contains the similar limitations set forth of claim 1. Therefore, claim 9 is rejected for the similar rationale set forth in claim 1.

12. As per claim 10, Mellmer discloses the receiving an instruction to unload the general-purpose event block device from the namespace; and unloading the general-purpose event block device from the namespace [Mellmer, no code or object are loaded, col 7 lines 28-40].

13. As per claim 11, Mellmer discloses the set of resources used by the general-purpose event block device comprises I/O space resources as inherent of resources.

14. As per claim 12, Mellmer discloses the set of resources used by the general-purpose event block device comprise memory space resources [Mellmer, memory, col 6 lines 1-5].

15. As per claim 14, Mellmer discloses computer-readable medium having a data structure stored thereon, the data structure comprising:

a first data object associated with a first general-purpose event component, and including a sub-object that defines a set of resources used by the first data object [Mellmer, a namespace is a list of names associated with collections of objects, col 6 lines 24-50; all of the component are objects, col 9 line 55-col 10 line 6] and

a second data object associated with a second general-purpose event component [Mellmer, components including content field which identifies the object and type of resource, col 5 lines 40-55, col 6 lines 50-67].

16. As per claim 15, Mellmer discloses a set of resolves used the second data object (i.e.: child name space) [Mellmer, col 7line s1-17].

17. As per claim 16, Mellmer discloses a root general purpose event component [Mellmer parent namespace, col 7 lines 1-27; col 8 lines 15-27], and wherein the first



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general-purpose event component comprises a secondary general-purpose event component.

18. As per claim 17, Mellmer discloses the first data object (i.e.: parent namespace) and the second data object (i.e.: child name space) are stored within a namespace associated with a configuration management system [Mellmer, col 7 line s1-17].

19. As per claim 18, Mellmer discloses the first data object and the second data object are stored within a Basic input /output System (BIOS) associated with a configuration management system [Mellmer, read and write, col 7 lines 55-65].

20. As per claim 19, Mellmer discloses the first data object and the second data object are read from the BIOS and stored within a namespace associated with a configuration management system [Mellmer, read and write, col 7 lines 55-65].

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 5, 20 are rejected under 35 U.S.C. § 103 as being unpatentable over Mellmer [6,446,253 B1] in view of Chow et al [Chow, 6,711,632 B1].

22. As per claim 20, Mellmer discloses the first general-purpose event component and the second general-purpose event component each comprise a hardware device electrically coupled to one or more other hardware devices [Mellmer, interconnected devices, col 9 lines 22-30] such that a signal generated by the one or more other hardware devices is presented by the respective general-purpose event component to the configuration management system [Mellmer, the notification may be in form of a visual or audio alert to indicate the status of the tool, col 10 lines 46-62].

However Mellmer does not explicitly detail the hardware devices is presented by the respective general-purpose event component to the configuration management system in the form of an interrupt.

A skilled artisan would have motivation to implement the control of resources in a distributing system and found the Chow teaching. Chow discloses a distributed data processing using write-back caching with minimal interrupts [Chow, abstract] wherein the name space can be viewed and when the device status changed [Chow, col 20 lines 55-61], the other event will be specifies a device has been hot-plugged [Chow, col 23 lines 12-27]. An Official Notice is taken that the hot-plug technique using an object code with ACPI name space and interrupt to control the event was well-known in the art [see Olarig reference]

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the technique using a minimal interrupt

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to view a name space and adding new devices on network as taught by Chow into the Mellmer's apparatus in order to utilize the logical interface functionality of a system.

Doing so would provide a quick and simple process to control the access to all resources over network.

23. As per claim 5, Mellmer-Chow disclose the notice is generated by the hardware device using standard interrupt mechanisms [Chow, abstract].

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (703)-305-4643. The examiner can normally be reached on Monday-Thursday from 8:00AM-4:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Jack Harvey*, can be reached at (703) 305-9705.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9700.

Any response to this action should be mailed to: Commissioner of Patent and Trademarks, Washington, D.C. 20231 or faxed to :

After Final (703) 746-7238

Official: (703) 746-7239

Non-Official (703) 746-7240

Hand-delivered responses should be brought to Crystal Park 11,2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

**Thong Vu**  
**Patent Examiner**  
**Art Unit 2142**

